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PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent application of	:	Attorney Docket No.:
William R. Shaffer	:	5249-51DI2 (150907)
	:	
Serial No.:	:	Group Art Unit:
09/828,660	:	2183
Filed:	:	
April 6, 2001	:	Examiner:
	:	Tsai, Henry
For:	:	
Tool Having Honed Cutting Edge	:	
	:	

DECLARATION OF GREGORY J. BURKE
IN SUPPORT OF PETITION TO REVIVE UNDER 37 CFR 1.137(b)

I, Gregory J. Burke, declare as follows:

1. I am an attorney employed by the law firm of Drinker Biddle & Reath LLP, One Logan Square, 18th and Cherry Streets, Philadelphia, Pennsylvania 19106.
2. I am registered as a patent attorney in the United States Patent and Trademark Office, Registration Number 38,399.
3. On November 12, 2003, I telephoned Examiner Henry Tsai and requested an interview to discuss the final office action of July 30, 2003 for Application Serial No. 09/828,660 and amendment of the claims. A telephonic interview was scheduled for November 18, 2003. Examiner Tsai requested that faxed documents be sent to (703) 746-3266, which would send the documents directly to him at the U.S. Patent Office.
4. On November 12, 2003, an Associate Power of Attorney appointing me and a draft response including proposed amendments to the claims and arguments, were transmitted to the fax number provided by Examiner Tsai.
5. On November 18, 2003, a telephonic interview was conducted between Examiner Tsai and myself. Examiner Tsai stated that he had reviewed the proposed claims faxed to him on November 12, 2003 and that he believed that the proposed claims distinguished over the cited art and would overcome the rejections of the July 30, 2003 office action. In view of the finality of the

office action of July 30, 2003, and the associated discretion regarding entry of amendments, I inquired as to the manner of obtaining entry of the proposed amendments. In particular, I specifically asked Examiner Tsai whether he would require a Request for Continued Examination (RCE) to obtain entry of the proposed claim amendments. In response, Examiner Tsai stated that an RCE would not be required. I thanked Examiner Tsai for this courtesy and stated that a written response including the proposed amendments would be submitted.

6. On November 20, 2003, I discussed the November 18, 2003 interview with Robert E. Cannuscio, a partner of Drinker Biddle & Reath LLP. Robert E. Cannuscio is a registered patent attorney, Registration No. 36,469.

7. On November 20, 2003, a signed written response to the July 30, 2003 office action was faxed to Examiner Tsai at the number identified by Examiner Tsai on November 12, 2003. A petition for a two (2) month extension of time and a fee for claims form were transmitted concurrently with the written response. A copy of a transmission report, evidencing that 15 pages were successfully transmitted to (703) 746-3266 on November 20, 2003, is attached hereto.

8. On December 16, 2003, I telephoned Examiner Tsai to inquire as to the status of the application with respect to the November 20, 2003 written response. Examiner Tsai stated that nothing had been done but that he would immediately forward the November 20, 2003 response to central processing for tracking. I inquired when Examiner Tsai anticipated that he would be acting on the written response. Examiner Tsai stated that a couple of weeks should be allotted in view of the approaching holiday period.

9. On December 30, 2003, I again telephoned Examiner Tsai to inquire as to the status of Application Serial No. 09/828,660 and the November 20, 2003 response. I briefly discussed the substance of the November 18, 2003 interview to refresh Examiner Tsai's recollection. Examiner Tsai stated that he remembered the November 18, 2003 interview and recollected that he had been favorably inclined regarding the proposed claim language. Examiner Tsai stated that he had forwarded the November 20, 2003 response to central processing but had nothing further to report. Examiner Tsai assured me that he would investigate and act on the November 20, 2003 response.

10. On January 26, 2004, I telephoned Examiner Tsai and recorded a voice-mail message inquiring as to the status of Serial No. 09/828,660 with respect to the November 20, 2003 response.

11. On January 27, 2004, Examiner Tsai telephoned me and stated that he had not yet acted on the November 20, 2003 response and had nothing further to report. I expressed concern and reminded Examiner Tsai that the deadline for responding to the July 30, 2003 office action was January 30, 2004. Examiner Tsai stated that he was aware of the situation and assured me that he would "not abandon the application." I offered to send a courtesy copy of the November 20, 2003 response to Examiner Tsai. Examiner Tsai directed me to fax the copy of the response to the same number that the original November 20, 2003 filing had been sent.

12. On January 27, 2004, a copy of the November 20, 2003 response was faxed to the number identified by Examiner Tsai. Transmitted concurrently with the copy of the November 20, 2003 response was a copy of the transmission report for the November 20, 2003 transmission. A copy of a second transmission report, evidencing that 16 pages were successfully transmitted to the (703) 746-3266 on January 27, 2004 is attached.

13. On or about February 16, 2004, Drinker Biddle & Reath LLP received an Advisory Action dated February 9, 2004 for Serial No. 09/828,660. The advisory action identified that the claim amendments included in the response filed November 20, 2003 would not be entered because there were "new issues". The advisory action further identified that the period for reply "expires 3 months from the mailing date of the final rejection."

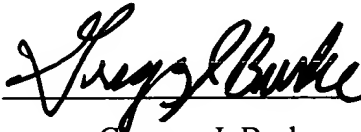
14. On February 18, 2004, I telephoned Examiner Tsai to discuss the February 9, 2004 advisory action. I reminded Examiner Tsai of his statement of January 27, 2004 assuring me that he would not abandon the application. Examiner Tsai stated that he had not abandoned the application. I noted that, in view of the February 9, 2004 advisory action, and the non-entry of the November 20, 2003 response, the application was technically abandoned. Examiner Tsai stated that he would confer with other Examiners to determine what, if anything, could be done.

15. On February 19, 2004, Examiner Tsai telephoned me and stated that he had conferred with other Examiners regarding the technical abandonment of application Serial No. 09/828,660. Examiner Tsai stated that nothing could be done at this point and that a Petition to Revive was required. Examiner Tsai read to me a portion of an Interview Summary Form for the

November 18, 2003 interview that indicated that the proposed claim amendments were new issues. Examiner Tsai stated that this form should have alerted me to either file an appeal or a Request for Continued Examination. I informed Examiner Tsai that the Interview Summary Form was not received by Drinker Biddle & Reath LLP and that, according to the records of the Patent Office, the Interview Summary Form had never been mailed. Attached hereto is a copy of information regarding the file history for Serial No. 09/828,660 obtained online at the Patent Office's website on February 17, 2004.

16. On February 19, 2004, Examiner Tsai faxed a copy of the Interview Summary Form that he had referred to. It should be noted that the Interview Summary Form refers to an Interview between Robert E. Cannuscio and Mr. Tsai. However, Mr. Cannuscio was not part of the interview.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.


Gregory J. Burke

*** TX REPORT ***

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CONNECTION TEL 3#150907#17037463266
SUBADDRESS
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PGS. SENT 15
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Drinker Biddle & Reath

One Logan Square
18th and Cherry Streets
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FACSIMILE INFORMATION SHEET

TO: Henry Tsai FROM: Robert Consuecia EXT.: 3303
DATE: 11-20-13 DOCUMENT NAME: Proposed Final Office Action
NUMBER OF PAGES: (INCLUDING COVER): 15
TELEPHONE NUMBER: _____ FAX NUMBER: 703-246-3266

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ENTIRETY, PLEASE CALL THE SENDER AT THE EXTENSION LISTED ABOVE.

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Philadelphia, PA 19103-6996
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FACSIMILE INFORMATION SHEET

TO: Henry Tsai FROM: Gregory Burke EXT.: 3302
DATE: 1-26-04 DOCUMENT NAME: 09/828,660
NUMBER OF PAGES: (INCLUDING COVER): 16
TELEPHONE NUMBER: _____ FAX NUMBER: (703) 746-3266

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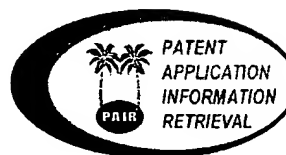
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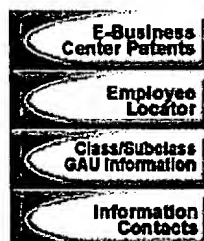
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PATENT APPLICATION INFORMATION RETRIEVAL



Other Links



Search results for application number:09/828,660			
Application Number:	09/828,660	Customer Number:	-
Filing or 371(c) Date:	04-06-2001	Status:	Advisory Action Mail
Application Type:	Utility	Status Date:	02-09-2004
Examiner Name:	TSAI, HENRY	Location:	2100 CENTRAL FILES OVERFLOW FRANCC
Group Art Unit:	2183	Location Date:	02-11-2004
Confirmation Number:	5705	Earliest Publication No:	US 2002-0016140 A1
Attorney Docket Number:	35867-150907	Earliest Publication Date:	02-07-2002
Class/ Sub-Class:	407/113	Patent Number:	-
First Named Inventor:	William Shaffer, Greensburg, PA	Issue Date of Patent:	-
Title Of Invention:	Tool having honed cutting edge		

Select Search Option

Continuity Data

Published Documents

Search

File History		
Number	Date	Contents Description
33	02-09-2004	Mail Advisory Action (PTOL - 303)
32	02-09-2004	Advisory Action (PTOL-303)
31	02-03-2004	Date Forwarded to Examiner
30	11-20-2003	Amendment after Final Rejection
29	11-20-2003	Request for Extension of Time - Granted
28	11-18-2003	Examiner Interview Summary Record (PTOL - 413)
25	07-30-2003	Mail Final Rejection (PTOL - 326)
24	07-28-2003	Final Rejection
23	05-06-2003	Information Disclosure Statement (IDS) Filed
22	05-20-2003	Date Forwarded to Examiner
21	05-06-2003	Response after Non-Final Action
20	01-30-2003	Mail Non-Final Rejection
19	01-28-2003	Case Docketed to Examiner in GAU
18	01-27-2003	Non-Final Rejection
17	01-24-2003	Case Docketed to Examiner in GAU
16	01-24-2003	Case Docketed to Examiner in GAU
15	12-19-2002	Case Docketed to Examiner in GAU
14	11-26-2002	Transfer Inquiry to GAU

13	11-07-2002	Case Docketed to Examiner in GAU
12	05-16-2002	Case Docketed to Examiner in GAU
11	03-26-2002	Case Docketed to Examiner in GAU
10	11-02-2001	Application Dispatched from OIPE
9	10-29-2001	Application Is Now Complete
8	04-06-2001	New or Additional Drawing Filed
7	04-06-2001	Preliminary Amendment
6	07-10-2001	Case Docketed to Examiner in GAU
5	06-19-2001	Transfer Inquiry
4	06-05-2001	Application Dispatched from OIPE
3	06-04-2001	Correspondence Address Change
2	04-20-2001	IFW Scan & PACR Auto Security Review
1	04-06-2001	Initial Exam Team nn

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